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DOMESTIC VIOLENCE DURING PANDEMIC: A SOCIO-LEGAL ANALYSIS

Nivedita Chaudhary*

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Abstract

A recent report from United Nations revealed that around "243 million women and girls aged 15-49 have been subjected to sexual and/or physical violence perpetrated by an intimate partner in the previous 12 months globally". During the stipulated time the world was dealing with the deadly pandemic which resulted in mandatory quarantine to stop the spread of the disease. The lockdown situation, however, turned out to be detrimental for women around the globe as the UN data suggests. The pandemic has resulted in more cases of gender-based violence. The similar situation has been reported in India also. This paper thus attempts to analyse the status of women who were constantly subjected to domestic violence during the lockdown. The article briefly discusses the ongoing trends all around the globe. The article also analyses the actions taken by the Indian government, other nations and International Organisations in response to this issue which help to highlight some of the best practices that can be implemented in nations grappling with the issue at hand.

Keywords: *Pandemic, Domestic Violence, lockdown, COVID-19, Human Rights, Women Rights*

I. Introduction

There has always been gender violence, but this crisis makes it all worse.

- Simona Ammerata

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The Coronavirus disease (COVID-19) has had an adverse impact on every segment of society. The pandemic not only changed the lives of individuals but also the coexistence of the many. Yet, it can be witnessed that the impact is much worse on the weaker sections of the society. Amongst all, women have been disproportionately affected by the ongoing pandemic situation. There has been an evident increase in cases of domestic violence against women all around the world. In fact, UN-Women has termed this phenomenon as "Shadow Pandemic" due to the intensified shift in the number of cases exacerbated by the measures put in place to mitigate the spread of the virus, such as lockdowns, social distancing and other forms of restrictions on movement. Lockdowns have taken away a woman's opportunity to leave the house and therefore leave her assailant.

A recent report from United Nations revealed that around "*243 million women and girls aged 15-49 have been subjected to sexual and/or physical violence perpetrated by an intimate partner in the previous 12 months globally*".[1] Globally, domestic violence reports and emergency calls have risen by 25% since lockdown was implemented.[2] This increase in number of cases highlights the gravity of the situation and also demands immediate attention from governments globally. In response to the situation United Nations Secretary-General António Guterres appealed and implored governments to address the "horrifying global surge in domestic violence in April 2020".

According to various studies, the reasons behind this recent surge in the number of the cases can be attributed to the current circumstances of unemployment and economic instability. The mental health experts have, on the other hand, attributed this rise to rising stress levels, confined life, prolonged work from home, anger management issues, alcoholism, etc.[3] However, the underlying causes remain to be the same *i.e.,* an imbalance of power and control. This imbalance stems from inequality between men and women, discriminatory attitudes and beliefs, gender stereotypes, social norms that tolerate and perpetuate violence and abuse, and societal structures that replicate inequality and discrimination.[4] The virus has just

1 United Nations Women, *COVID-19 and ending violence against women and girls* (June, 2020), 15 July 2021. https://www.unwomen.org/-/media/headquarters/attachments/sections/library/publications/2020/issue-brief-covid-19-and-ending-violence-against-women-and-girls-en.pdf?la=en&vs=5006

2 Bella Christie, *The Link Between Lockdown and Increase of Domestic Violence Against Women*, THE ORGANISATION FOR WORLD PEACE (July 25, 2021), https://theowp.org/the-link-between-lockdown-and-increase-of-domestic-violence-against-women/ .

3 Rica Bhattacharyya, *Steep rise in domestic violence cases as Pandemic changes home dynamics,* THE ECONOMIC TIMES (December 28, 2020), https://economictimes.indiatimes.com/industry/miscellaneous/steep-rise-in-domestic-violence-cases-as-pandemic-changes-home-dynamics/articleshow/79983714.cms

4 María-Noel Vaeza, *Addressing the Impact of the COVID-19 Pandemic on Violence Against Women and Girls,* UN CHRONICLE (November 27, 2020), https://www.un.org/en/addressing-impact-covid-19-pandemic-violence-against-women-and-girls

added fuel in the running fire. Additionally, this crisis is generating more barriers for women and girls in accessing the essential life-saving services such as counselling and justice resources, and legal advice; sexual health and other crucial medical assistance; and the provision of refuge. These barriers have, therefore, proved to have an adverse impact on the mental as well physical health of women and increased the risk of violence. This has also resulted in violation of numerous human rights of women and girls. As the world is distracted by the pandemic, many perpetrators take on an ever-greater sense of impunity, assuming that they have the freedom to act without restriction.

This paper thus attempts to analyse the status of women who were constantly subjected to domestic violence by their husbands, other family members and relatives during the lockdown. The article therefore begins with the brief introduction to the ongoing trends and related issues all around the world. A part of this heading briefly delves into the current Indian situation also. Herein, data will be highlighted from various nations including India depicting the increase in number of cases of domestic violence against women. This helps to highlight the gravity of the issue. In second part, the paper will document the impact of the COVID-19 pandemic on the dynamics of gender-based violence which will also discuss the economic impact. The third part discusses the human rights implications of such violence against women. In later parts, the paper analyses the policy responses taken to prevent, reduce and support victims of violence by the Indian government and International Organisations in response to this issue. A comparative analysis has been done with the responses taken all around the world by other Governmental agencies which help to highlight some of the best practices that can be implemented in other nations also grappling with the issue at hand.

II. What is Domestic Violence?

In 1993 the UN Declaration on the Elimination of Violence against Women provided a definition of the term "domestic violence". The declaration defines it as:[5]

> Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

5 Declaration on the Elimination of Violence against Women, A/RES/48/104, UN. General Assembly (48th sess.: 1993-1994).

In 1996, the United Nations Commission on Human Rights defined "domestic violence against women" as violence that occurs within the private sphere, mainly between individuals who are related through intimacy, blood, or law.[6] The term 'domestic' denotes that violence which occurs within a domestic setting including all kinds of cohabitations and domestic relationships within a family. Domestic violence is a comprehensive term that includes many forms of abuse – physical, psychological, emotional, sexual, and even financial. Domestic violence (also named as domestic abuse/family violence) is a pattern of behaviour. Domestic violence is a pervasive violence of women's human rights and has been resistant to social advances because of its "hidden" nature. Such violence is a problem in every country of the world and almost universally under-reported. Domestic violence is one of the most common forms of torture in women[7] and is a major international social and public health problem in both developed and developing countries.

The Protection of Women from Domestic Violence Act, 2005 gives the legal definition of "Domestic Violence" under Section 3. The definition of Domestic Violence includes four categories of abuse namely: physical, sexual, verbal/emotional and economic.

> "Physical Abuse" is any act or conduct which causes bodily pain, harm, or danger to life, limb, or health or impair the health or development of the aggrieved person. It also includes assault, criminal intimidation and criminal force. "Sexual Abuse" is any sexual conduct that abuses, humiliates, degrades, or otherwise violates the dignity of a woman. "Verbal and Emotional Abuse" includes insults, ridicule, humiliation, name calling especially with regard to not having a child or not having a male child and repeated threats to cause physical pain to any person whom the aggrieved is interested in. Lastly, "Economic Abuse" is depriving the aggrieved woman from all sorts of financial resources to which she is entitled to under any law or custom or legal order or which she requires out of necessity, such as for running the household, taking care of the children etc. The definition provided by Indian legislation is quite expansive in nature. The judiciary also keep interpreting the definition which increases the scope of the Act. Domestic Violence can take many forms and is still the most common form of VAW,

6 Ms. Radhika Coomaraswamy (Special Rapporteur on violence against women), *Report on violence against women, its causes and consequences in accordance with Commission on Human Rights resolution 1994/45,* UN Doc. E/CN.4/1996/53 (February 5, 1996).

7 M. R. Rand and K. Strom, *Violence-related injuries treated in hospital emergency departments*, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT, 1-11, 1997.

with about 35% of women globally having experienced physical and/ or sexual violence in their lifetime by an intimate partner.[8]

III. Ongoing Trends

Since the outbreak of COVID-19, emerging data and reports from those on the front lines, have shown that all types of violence against women and girls, particularly domestic violence, has intensified. A recent report from United Nations revealed that around "*243 million women and girls have been subjected to intimate partner violence in the previous 12 months globally*".[9] It has also been reported that all around the world domestic violence reports and emergency calls have risen by 25% since first lockdown was implemented. The studies have also shown that there are certain groups of women which are particularly more at risk like older women, women with disabilities, poor women, women from minority communities, etc.[10] The newspaper and other reports highlighted a sharp increase in calls for help and requests for relief shelters by the victims of domestic abuse during the first lockdown worldwide. For instance, there is a 10% rise in emergency calls related to DV in UK, 18% in Spain, 20% in USA, 30% in Cyprus, 32% in France, 33% increase in Singapore, 39% in Argentina, 40-50% in Brazil, 48% in Peru, 53% in Mexico, 73% in Italy, and 90% rise in Colombia.[11] Similar drastic increase has been witnessed in Arab countries also. A survey called "Arab Barometer" reported an increase of 40-70% in

8 Ilaria Bottiglierorea, Abada Chiongson, et.al., Data, laws and justice innovations to address violence against women during COVID-19, WORLD BANK BLOGS (December 7, 2020), July 18, 2021. https://blogs.worldbank.org/developmenttalk/data-laws-and-justice-innovations-address-violence-against-women-during-covid-19

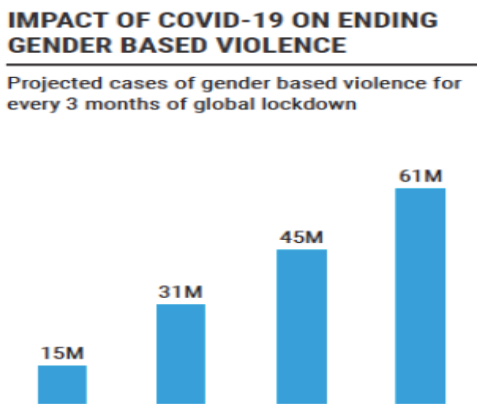
9 Supra note 1. UN Women, Issue Papers, COVID-19 and ending violence against women and girls.

10 Ashley Abramson, *How COVID-19 may increase domestic violence and child abuse*, APA (April 8, 2020), https://www.apa.org/topics/covid-19/domestic-violence-child-abuse

11 Emma Graham-Harrison, Angela Giuffrida, et.al., *Lockdowns around the world bring rise in domestic violence*, THE GUARDIAN (March 28, 2020), July 18, 2021,https://www.theguardian.com/society/2020/mar/28/lockdowns-world-rise-domestic-violence Akshaya Krishnakumar & Shankey Verma*, Understanding Domestic Violence in India During COVID-19: a Routine Activity Approach*, 16 ASIAN J. CRIMINOL 19-35 (2021); Daniel Fernandez-Kranz, *Understanding the rise of domestic violence during the Covid-19 pandemic: Evidence from Spain*, ECONOMICS OBSERVATORY (2020), https://www.economicsobservatory.com/ongoing-research/understanding-the-rise-of-domestic-violence-during-the-covid-19-pandemic-evidence-from-spain ; France to put domestic violence victims in hotels as numbers soar under coronavirus lockdown, FRANCE 24 (March 30, 2020), https://www.france24.com/en/20200330-france-to-put-domestic-violence-victims-in-hotels-as-numbers-soar-under-coronavirus-lockdown ; Anya Prusa, Beatriz García Nice & Olivia Soledad*, Pandemic of Violence: Protecting Women during COVID-19*, WILSON CENTER (May 15, 2020), July 18, 2021https://www.wilsoncenter.org/blog-post/pandemic-violence-protecting-women-during-covid-19 and Brad Boserup, Mark McKenney and Adel Elkbuli, *Alarming trends in US domestic violence during the COVID-19 pandemic*, 38 (12) AM J EMERG MED. 2753–2755 (2020).

domestic violence between July and October 2020. In second round of survey, conducted between March and April 2021, the number dropped at few places but remained high at other places ranging from 24% to 60%. It skyrocketed in Jordan from 29 per cent to 55 per cent and in Lebanon from 23 per cent to 43 per cent.[12] According to Human Rights Watch report 2020, cases of domestic violence increased by 200 per cent in Pakistan.[13]

The Special Rapporteur on violence against women, *Dubravka Šimonović*, have reported similar patterns in her report issued in July 2020.[14] Further, the current estimates by UNFPA indicate that for every three months of lockdown, an additional 15 million women are expected to be subjected to violence.[15] (Refer the Image below).



Source: UNFPA[16] (UN Population Fund) DV is an under-reported crime all over the

12 Aseel Alayli, *COVID-19 Magnifies Pre-Existing Gender Inequalities in MENA*, A RAB BAROMETER (December 1, 2020), July 18, 2021; https://www.arabbarometer.org/2020/12/covid-19-magnifies-pre-existing-gender-inequalities-in-mena/ See also, Deutsche Welle, *More violence, less income: Arab women bear the brunt of COVID-19*, study finds, FRONTLINE (August 3, 2021),https://frontline.thehindu.com/dispatches/more-violence-less-income-arab-women-bear-the-brunt-of-covid-19-study-finds/article35690720.ece

13 Saira Asad, *Domestic Violence - An insidious problem*, THE NEWS (August 01, 2021), Domestic Violence - An insidious problem (thenews.com.pk)

14 Dubravka Šimonović (Special Rapporteur on violence against women, its causes and consequences), *Intersection between the coronavirus disease (COVID-19) pandemic and the pandemic of gender-based violence against women, with a focus on domestic violence and the "peace in the home" initiative*, UN Doc. A/75/144 (July 24, 2020).

15 Patsilí Toledo Vasquez (International Consultant), *The impact of COVID-19 on criminal justice system responses to gender-based violence against women: a global review of emerging evidence,* UN Doc. E/CN.15/2021/CRP.2 (April 28, 2021).

16 Ibid. Patsilí Toledo.

world.[17] The global data indicates that less than 40 per cent of the women who experience violence seek help of any sort and less than 10 per cent of those seeking help turned to the police.[18] Hence the actual figures could be higher than the present reports suggest.

IV. Situation in India

The situation in India is no different from other countries. The National Commission for Women (NCW), which is the government body which receives complaints of domestic violence from all parts of the country has recorded more than twofold rise in gender-based violence during lockdown. In 2020, the commission received total 23,722 complaints[19] of crimes against women under 23 categories, marking a sharp rise from the 19,730 complaints[20] registered in 2019, which showed an alarming increase of around 20% in the complaints. Out of these reported incidents, 5297 cases were registered under the category of "Protection of Women against Domestic Violence" in 2020 whereas 2960 cases were registered in 2019. This NCW data shows that there is an increase of around 80% of cases of domestic violence in India. (Refer the chart below).

Nature of Crime/Number of Reported Cases	2019	2020
All Crimes against Women	19730	23722
Protection of Women against Domestic Violence	2960	5297

The number of complaints registered under domestic violence category has started to increase from the first lockdown in India i.e., March 25 to May 31. This can be seen in the following chart that the cases have only increased thereafter. (Refer the chart below).

Months	**No. of Complaints**	**Months**	**No. of Complaints**
January	271	July	660
February	302	August	539
March	298	September	492

17 Payal Seth, *As COVID-19 Raged, the Shadow Pandemic of Domestic Violence Swept Across the Globe*, THE WIRE (January 23, 2021), https://thewire.in/women/covid-19-domestic-violence-hdr-2020

18 United Nations Department of Economic and Social Affairs, *The World's Women 2015: Trends and Statistics,* UN Doc. ST/ESA/STAT/SER.K/20 (2015).

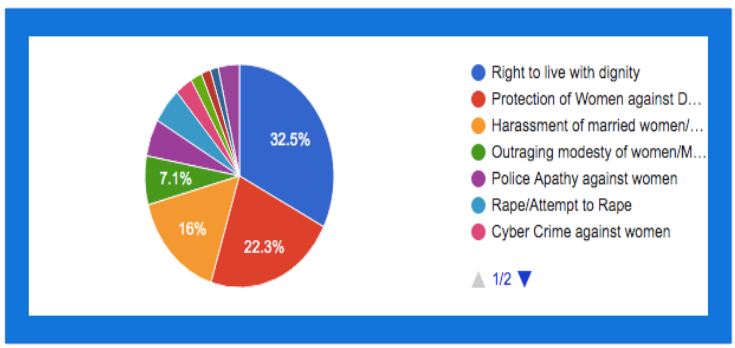
19 National Commission for Women, Nature-Wise Report of the Complaints Received by NCW in the Year: 2020, http://ncwapps.nic.in/frmReportNature.aspx?Year=2020

20 National Commission for Women, Nature-Wise Report of the Complaints Received by NCW in the Year : 2019, http://ncwapps.nic.in/frmReportNature.aspx?Year=2019

April	315	October	495
May	393	November	485
June	461	December	586
Total Number of Complaints		**5297**	

Domestic Violence Complaints received by NCW in the Year 2020[21]

The maximum number of complaints received by the NCW was registered as a violation of the "right to live with dignity" in both 2019 as well as 2020 which is followed by complaints against domestic violence.[22] The image below is depicting number of cases in 2020.



Source: National Commission for Women

The National Commission for Women (NCW) received 13,410 complaints of crimes against women between March – September 2020, of which 4,350 were domestic violence.[23] In 2020, between March-May, 1,477 complaints of domestic violence were made by women. This 68-day period recorded more complaints than those received between March and May in the previous 10 years.[24] Similar increase has been witnessed in the beginning of 2021 also. Around 2,383 complaints of domestic violence have already been filed with

21 Supra note 20. NCW report of 2020.

22 National Commission for Women, Statistical Overview of Complaints of 2020, http://ncwapps.nic.in/frmComp_stat_Overview.aspx , See also, Sumi Sukanya Dutta, *25 per cent rise in plaints from women during Covid pandemic*: NCW latest report, THE NEW INDIAN EXPRESS (July 06, 2021), https://www.newindianexpress.com/nation/2021/jul/06/25-per-cent-rise-in-plaints-from-women-during-covid-pandemic-ncw-latest-report-2326127.html

23 Mitali Nikore, *With Covid-19, comes the "Shadow Pandemic": How the surge of domestic violence gripped India's women in 2020*, THE TIMES OF INDIA (November 24, 2020), https://timesofindia.indiatimes.com/blogs/irrational-economics/with-covid-19-comes-the-shadow-pandemic-how-the-surge-of-domestic-violence-gripped-indias-women-in-2020/

24 Vignesh Radhakrishnan, Sumant Sen and Naresh Singaravelu, *Domestic violence complaints at a 10-year high during COVID-19 lockdown*, THE HINDU (June 22, 2020), https://www.thehindu.com/data/data-domestic-violence-complaints-at-a-10-year-high-during-covid-19-lockdown/article31885001.ece

the National Commission for Women between January-May which is the highest since 2000 (last 21 years).[25] In comparison to year 2020, 1,579 cases were reported during January-May which means there is an increase of around 51% already. Most complaints were received from U.P., followed by Delhi, Haryana, Maharashtra, Bihar, Rajasthan and others.[26]

During 2018-19, the National Commission for Women registered 19,279 complaints/cases in all 23 categories of crimes against women. Out of these, only 462 complaints were lodged under the category "Protection of Women against Domestic Violence".[27] However, one of the limitations of this data is this that "Protection of Women against Domestic Violence" category was included from January 2019 only. It has also been reported that only 14% of women who have ever experienced violence seek help, thus making it clear that figures of reported violence are only the tip of the iceberg.[28] However, this data can be used to understand the underlying trends and issues related to domestic violence.

VI. Policy Initiatives

In the wake of COVID-19, United Nations came up with *COVID-19 Global Gender Response Tracker* with the help of UNDP and UN Women. This *UN Gender Tracker* investigates the policy responses taken by governments worldwide to tackle the pandemic, and highlights those that have integrated a gender lens. It also analyses policy measures taken by the governments to address the issue of violence against women (VAW) among other gender issues. The Tracker provides guidance for policymakers and evidence for advocates to ensure a gender-sensitive COVID-19 policy response. According to the recent data of Tracker, there are 832 measures all over the world to address the issue of VAW in COVID-19 context. The tracker suggests that Europe is leading the response on addressing VAWG with 242 measures in place, followed by America (223 measures), Asia (184), Africa (117) and Oceania (66).[29] (look at the image below).

25 Sumant Sen and Jasmin Nihalani, *Domestic violence complaints received in past five months reach a 21-year high, THE* HINDU (June 21, 2021), https://www.thehindu.com/data/data-domestic-violence-complaints-received-in-past-five-months-reach-a-21-year-high/article34877182.ece .

26 Supra note 23. NCW stats.

27 National Commission for Women, Annual Report 2018-19.

28 Supra note 24. Mitali Nikore.

29 UNDP-UNW COVID-19 Global Gender Response Tracker Policy Measures Dataset. Living database, version 2 (March 22, 2021) https://data.undp.org/gendertracker/ .

Number of measures by region

Region	All Measures	Gender Sensitive	Unpaid care	Violence against women	Women's economic security
Oceania	143	85	12	66	7
Europe	908	361	91	242	28
Asia	770	281	25	184	72
Americas	752	360	42	223	95
Africa	539	212	10	117	85
Total	**3,112**	**1,299**	**180**	**832**	**287**

Source: COVID-19 Global Gender Response Tracker[30]

The new data shows that governments have primarily focused their gender-related COVID-19 efforts on preventing and/or responding to violence against women and girls (VAWG) – these measures account for 71% percent of all actions identified, or 704 measures across 135 countries. Out of this, 63% focus on strengthening essential services, such as shelters, helplines and other reporting mechanisms. However, only 48 countries out of 206 countries (including India) treated VAWG-related services as an integral part of their COVID-19 response plans, with very few adequately funding these measures.[31] The Tracker signal that 42 countries (20%) have no gender-sensitive measures in response to COVID-19 at all.[32] Countries like Spain, Singapore, South Africa declared services to protect and assist victims of gender-based violence and their children an essential service.

The tracker has divided policy measures in 5 parts – a) Strengthening of Services; b) Awareness Raising Campaign; c) Integration of VAW in COVID-19 response plans; d) Collection and use of data; e) Other measures. The policy measure "Strengthening of Services" has further been sub-divided in the following parts – i) Hotlines and Reporting Mechanisms ii) Police and Justice Responses to address impunity iii) Continued functioning and expansion of shelters iv) Coordinated accessible services v) Continued provision of psychological support vi) Continuity of health sector response to VAW. These measures have been implemented in pieces all around the world. Authorities all around the world have deployed social media platforms, online support groups and web-based hotlines across countries to tackle domestic violence, with some countries standing out for their best practices.[33] For instance, Vodafone Foundation launched an app called "Bright Sky" which provides support and information to

30 Ibid.

31 Sangita Khadka and Maria Sanchez, UNDP and UN Women launch COVID-19 Global Gender Response Tracker, UNDP (September 28, 2020), https://www.undp.org/press-releases/undp-and-un-women-launch-covid-19-global-gender-response-tracker

32 Ibid.

33 Supra note 24. Mitali Nikore.

victims of domestic violence. This app has been launched at UK, Ireland, Czech Republic, Romania, Italy, Portugal, Albania, South Africa, Hungary, New Zealand, and Luxembourg. Through this app thousands of couriers and mail delivery staff have been trained to spot the signs of domestic violence, and how to react, referring victims to the app when possible.[34]

Similarly, France and Spain started an innovative system, where women could report domestic violence at pharmacies using the codeword "mask19". The pharmacists were trained to offer instant help to the women who asked for "mask19". Italy adopted hotel room initiative to create safe spaces for domestic violence victims in which specific hotel rooms were used as temporary shelters for women who were at risk of domestic violence. This initiative upheld the safety precautions within COVID-19 rules and domestic violence safety.

VII. Initiatives at India

In India, similar efforts have been made to ensure that existing government scheme such as "One Stop Centres" (OSC) remain operational. OSCs were established in 2015 and are intended to support women affected by violence, in private and public spaces. Currently, there are 703 OSCs in India which were fully operational even during lockdowns and provided medical as well as legal aid to the distressed women.[35] Recently, the Ministry of Health and Family Welfare released guidelines for OSCs to ensure continuity of essential services like shelter and to meet the needs of survivors of domestic violence like counselling facilities. The Government also shared National Legal Aid Services Authority's (NALSA) directory of Legal Service Institutions with NALSA Legal Aid Helpline and online portal with all the OSCs and Women Helplines to facilitate legal aid and counselling to women facing violence. The Government of India strengthened existing helplines for women, and extended emergency response mechanisms to address issues of domestic violence and intimate partner violence. Key helplines, including the ones established by the Chief Ministers' offices in their respective states, are operational both at the National and Sub-National levels.

34 *Domestic violence and abuse: providing support during COVID-19*, VODAFONE FOUNDATION NEWS (April 22, 2020), https://www.vodafone.com/news/vodafone-foundation/domestic-violence-abuse-providing-support-during-isolation

35 Press Trust of India, *COVID-19 lockdown: One-stop centres providing aid to distressed women are functional, says Irani*, BUSINESS STANDARD (April 09, 2020), https://www.business-standard.com/article/pti-stories/covid-19-lockdown-one-stop-centres-providing-aid-to-distressed-women-are-functional-says-irani-120040900001_1.html See also, Ministry of Women and Child Development, *Over 3 Lakh Women Provided Assistance Through 701 One Stop Centres in 35 States/UTs*, PIB DELHI (May 22, 2021), https://pib.gov.in/PressReleasePage.aspx?PRID=1720843

Additionally, National Commission for Women launched WhatsApp based helpline number in April 2020 through which around 33% of reports were received successfully.[36] This discreet method was brought in place to increase the reporting of maximum number of cases. The National Commission for Women has extended its base of counsellors available to address psychosocial needs of women survivors of violence. The national and subnational governments have been popularising Central and State-specific domestic violence helpline numbers through social media campaigns, webinars and twitter chats on addressing intimate partner violence and domestic violence. Various State governments also launched initiatives to prevent domestic violence cases. For instance, the State Legal Services Authority of Delhi have set up a phone number (+91 96679 92802), which can be reached through messages on WhatsApp and SMS. The Delhi State Legal Services Authority (DSLSA) also announced collaboration with Mother Dairy booths (Milk Booths), pharmacists and chemists for information on survivors of violence and also launched an app to deliver legal aid to these individuals. DSLSA has also tied up with anganwadi and ASHA workers who might come across domestic violence cases in their areas. Uttar Pradesh Police's "Suppress corona, not your voice" campaign through which UP Police launched new helpline numbers.[37] Similarly, Odisha Police's launched "Phone-Up programme" through which policemen contacted women who had earlier reported domestic violence to enquire about their condition.[38] Maharashtra government recently launched an app called "Stand Up Against Violence". The app lists contact details of State and non-State agencies, service providers, and activists who can assist women victims of domestic abuse.[39]

Various citizen-led imitative also came on surface and one such initiative is the "Red Dot Initiative" which was launched on 30 March 2020 by Women Entrepreneur Foundation (WEFT) which asks women to use a *red bindi* as a distress signal.[40]

VIII. Legal Framework

Violence against women is the one of the most widespread, persistent and devastating human

36 The NCW launched a WhatsApp number 7217735372 for registration of cases of Domestic Violence.

37 Aanchal Nigam, *'Supress Corona, Not Your Voice': UP Police Lauded For Ad Against Domestic Violence*, REPUBLIC WORLD (March 20, 2020), https://www.republicworld.com/india-news/general-news/brilliant-up-police-lauded-for-ad-against-domestic-violence.html

38 Press Trust of India*, Odisha police takes initiative to address domestic violence during lockdown*, INDIA TODAY (April 18, 2020),https://www.indiatoday.in/india/story/odisha-police-takes-initiative-to-address-domestic-violence-during-lockdown-1668302-2020-04-18

39 Supra note 24. Mitali Nikore.

40 UN Economic and Social Commission for Asia and the Pacific, The Covid-19 Pandemic and Violence Against Women in Asia and the Pacific, Policy Brief (June 28, 2021).

rights abuses. There are various legal instruments at international level which recognise violence against women as a violation of basic human right. These instruments include **"**Universal Declaration of Human Rights, 1948", "the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979", "the Vienna Declaration and Programme of Action, 1993" recognises elimination of violence against women as a human right obligation, "the Declaration on the Elimination of Violence Against Women, 1993", "Special Rapporteur on violence against women, its causes and consequences",[41] Committee in its General Recommendation No. 19, asserted that violence against women is a form of discrimination.[42]

The "1995 Beijing Declaration and Platform for Action" highlighted that, "Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms." Additionally, Violence against women is a human rights violation that hinders development and the achievement of the Sustainable Developmental Goals. The fifth goal (target 5.2) of the 2030 Sustainable Development Goals (SDGs) is to achieve gender equality and women's empowerment.

India, being a party to these international conventions and treaties, have similar obligations to protect the basic human rights of women. To fulfil its obligations at the international platform, India developed an extensive legal machinery against domestic violence. There are three pieces of legislations in India that deal directly with domestic violence: The Protection of Women from Domestic Violence Act, 2005, The Dowry Prohibition Act, 1961 and the Indian Penal Code. These laws are there in place to protect and promote the human rights of women. The Protection of Women from Domestic Violence Act, 2005 is a civil law that provides protection to women in a household against domestic violence. The act provides for an expansive definition of domestic violence which includes not just physical but also verbal, emotional, sexual and economic violence and provide the scope for urgent, protective injunctions, along with economic rights including maintenance and compensation. The scope of DV Act is much wider in comparison to IPC. The DV Act promotes the rights of women guaranteed under Articles 14, 15 and 21 of the Constitution.

The second law is the Dowry Prohibition Act, 1961. This is a criminal law that punishes the taking and giving of dowry. The third law that exists to help women who are facing

41 The United Nations Commission on Human Rights appointed a Special Rapporteur on violence against women on March 04, 1994 through resolution 1994/45.

42 Nilakshi Srivastava, *Surge in Domestic Violence Cases during Covid-19 Lockdown in India*, HUMAN RIGHTS CONSORTIUM (August 03, 2020), https://humanrights.blogs.sas.ac.uk/2020/08/03/surge-in-domestic-violence-cases-during-covid-19-lockdown-in-india/

violence at home is Section 498A of the Indian Penal Code (Husband or relative of husband of a woman subjecting her to cruelty). This is a criminal law, which applies to husbands or relatives of husbands for "Cruelty" which refers to any kind of conduct that drives a woman to suicide or causes grave injury to her life or health – including mental health – and also includes harassment in the name of dowry.

IX. Judicial Activism

The Judiciary has also played an important role in prevention of domestic violence during pandemic. The court, regardless of its limitations, imposed due to lockdown, continued to protect and promote human rights of women through their constructive interpretations of the DV Act. The Higher Courts also supervised the functioning of other organs of the state i.e., legislature and executive. To fulfil their responsibility, the courts heard countless petitions on the issue of domestic violence during lockdown and dictated guidelines on the same through virtual hearings. The most common relief sought in various petitions were to appoint more protection officers on duty to ensure safety of the victims and to establish measures to curb DV.[43]

The division bench of the Delhi High Court in *All India Council of Human Rights Liberties* v. *Union of India*[44], directed the Central government and the Government of Delhi to convene a high-level meeting to take expeditious steps to protect the victims of domestic violence and suggested the appointment of temporary protection officers. Similarly, the High Court of Jammu & Kashmir took suo-moto cognisance in *In Re: Court on Its Own Motion* v. *Union Territories of Jammu & Kashmir and Ladakh through Secretaries, Social Welfare Department*[45] and issued notices to the authorities and asked them to submit a report highlighting the steps taken regarding domestic or any other kind of violence being faced by women

In various other petitions, higher judiciary revisited the DV act and pronounced constructive interpretations and remedies. In *S. Vanitha* v. *Deputy Commissioner, Bengaluru Urban District*,[46] the Supreme Court held that "the Maintenance and Welfare of Parents and Senior

43 *Effective steps taken to curb domestic violence during lockdown,* TN tells Madras HC, THE NEW INDIAN EXPRESS (April 25, 2020), https://www.newindianexpress.com/states/tamil-nadu/2020/apr/25/effective-steps-taken-to-curb-domestic-violence-during-lockdown-tn-tells-madras-hc-2135296.html

44 All India Council of Human Rights Liberties v. Union of India, 2020 SCC OnLine Del 537.

45 In Re: Court on Its Own Motion v. Union Territories of Jammu & Kashmir and Ladakh through Secretaries, Social Welfare Department, WP(C) PIL No. 1/2020.

46 S. Vanitha v. Deputy Commissioner, Bengaluru Urban District, Civil Appeal No. 3822 of 2020.

Citizens Act has no overriding effect over the right of residence of a woman in a 'shared household' within the meaning of the DV Act". In *Satish Chander Ahuja* v. *Sneha Ahuja*,[47] the Supreme Court analysed the definition of "shared household" under section 2(s) of the DV Act, 2005 and the statutory right of the wife to reside in the matrimonial house. In this landmark judgment, the Apex Court held that, "a wife is also entitled to claim a right to residence in a shared household belonging to relatives of the husband" while overruling the 2006 judgment in *S.R. Batra* v. *Taruna Batra*.

In light of the given circumstances, various High Courts also actively interpreted the nature of proceedings under DV Act. For instance, in *Muthulakshmi and others* v. *Vijitha*[48], the single bench of Madras High Court held that "regardless of whether DV Act proceeding is civil or criminal in nature, powers under Article 227 of the Constitution are available against it". The bench also observed that Article 227 is "forum-neutral". Similarly, the division bench of Bombay High Court in *Dr. Sandip Mrinmoy Chakrabarty* v. *Reshita Sandip Chakrabarty*,[49] held that "the rights created and remedies provided for in the DV Act are basically of civil nature and civil appeal can be filed against the order passed under the DV Act." In *Sirisha Dinavahi Bansal* v. *Rajiv Bansal*,[50] a single bench of the Delhi High Court, held that in case "there is a clear remedy of Appeal under Section 29 of the DV Act is available, the High Court cannot entertain the petition in its extraordinary power under Section 482 Cr.PC."

In *Mahin Kutty* v. *Anshida,*[51] the Kerala High Court considered the application of the principles of res judicata in light of the scheme of legislation of the DV Act and held that "recovery proceedings instituted under Section 20 of the DV Act would not operate as a bar on a Family Court adjudication of the matter". Similarly, the High Court of Meghalaya in *Masood Khan* v. *Smt. Millie Hazarika*,[52] analysed the dimension of any criminal law involved in proceedings under the DV Act, 2005 and held that "petition under section 482 of the CrPC challenging the proceedings of the DV Act is maintainable". Whereas in *Ramachandra Warrior* v. *Jayasree*,[53] the Kerala High Court held that "a divorced wife is not entitled to the right of residence conferred under section 17 of the DV Act". In various other judgments, the high courts interpreted the meaning and scope of the terms defined in

47 Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414.

48 Muthulakshmi and others v. Vijitha, C.R.P (MD).No. SR16753 of 2021.

49 Dr. Sandip Mrinmoy Chakrabarty v. Reshita Sandip Chakrabarty, Family Court Appeal No. 31 of 2020.

50 Sirisha Dinavahi Bansal v. Rajiv Bansal, CRL. M.C. 1554/2020 and Crl. M.A. 8821/2020.

51 Mahin Kutty v. Anshida, Mat.Appeal.No. 739 of 2014.

52 Masood Khan v. Smt. Millie Hazarika, Crl. Petn. No. 1 of 2021.

53 Ramachandra Warrior v. Jayasree, Crl.Rev.Pet.No. 3079 OF 2009.

the DV Act. For instance, in *Smt. Harini H.* v. *Smt. Kavya H. @ Sangeetha and others*[54], single bench of Karnataka High Court interpreted the meaning and scope of "respondent" under section 2(q) of the DV Act and held that "only those persons who have been in the 'domestic relationship' can be made respondent". Similarly, the Tripura High Court in *Ramendra Kishore Bhattacharjee* v. *Smt. Madhurima Bhattacharjee,*[55] analysed the scope of the definition of the term 'domestic violence' and held that "denial of maintenance allowance by a husband to his wife causes economic abuse which falls within the meaning of section 3 of the DV Act, 2005". It can be seen that there are enough laws in place and even the judiciary is very active in performing its role and duties. However, it is not easy for the judicial system to break into the stranglehold of the patriarchal family. There are still many challenges.[56]

X. What Can Be Done?

The consequences of the COVID-19 pandemic are far-reaching and we still have much to learn about how this pandemic has impacted and will continue to impact survivors of domestic violence. The pandemic has not only exposed pre-existing gaps and shortcomings in the system dealing with the prevention of violence against women that had not been sufficiently addressed by many States. It has also identified challenges that victims as well as victim service agencies faced during pandemic situation like available funding and resources, homelessness and financial insecurity of survivors, health and wellness of both staff and clients, limitations in services available within the community, and continued isolation and safety of survivors.

In light of the given circumstances, the governments all around the world urgently need to first recognise 'DV as a silent pandemic'. Secondly, the governments also need to recognise the services to respond to and prevent DV as essential services and must make them an integral part of national and local COVID-19 response plans. These services should be funded on a regular basis. In India, there was no mention of the allocation of funds for the policy initiatives for DV like the economic stimulus packages were announced to tide over the crisis created by the pandemic. Similarly, financial packages can be devised for the survivors of domestic violence who have nowhere to go. The pandemic also highlighted the need for recognising 24/7 instant counselling, rehabilitation and access

54 Smt. Harini H. v. Smt. Kavya H. @ Sangeetha and others, Criminal Petition No. 2148 of 2021.

55 Ramendra Kishore Bhattacharjee v. Smt. Madhurima Bhattacharjee, Crl. Rev. P. No. 36 of 2020.

56 EPW Engage, *COVID-19, Domestic Abuse and Violence: Where Do Indian Women Stand?,* EPW (April 17, 2020), https://www.epw.in/engage/article/covid-19-domestic-abuse-and-violence-where-do

to mental health services in the shelter homes as essential services. Akin to the national campaigns on COVID-19, the government can utilise several mass communication platforms to enhance awareness about the resources accessible to the victims of DV and to emphasise upon the consequences of DV on the perpetrator. Further, there is a need to identify creative ways to make services accessible in the context of physical distancing measures as it has been reported that 57% of the women in India still do not have access to phones. Due to this, women are not able to register complaints. For facilitating the access, government can train health facilities and providers in matters related to domestic violence as has been done in France and Spain. They can provide "first-line support"[57] and medical treatment to those who disclose by any means that they have been abused. They can help in connecting victims to the aiding agencies and shelters in case of severe abuse issues. Health providers and facilities can also disseminate information about DV services available locally for victims. For e.g. hotlines, shelters, rape crisis centers, counselling including opening hours, contact details, and whether services can be offered remotely, and establish referral linkages. Humanitarian response organizations need to include services for women subjected to violence and their children in their COVID-19 response plans and gather data on reported cases of violence against women. Community members and neighbours can also be made aware of the increased risk of violence against women and the need to keep in touch and support women subjected to violence, and to have information about where help for survivors is available. Other support services also need an expansion in both traditional and non-traditional way. Traditional methods include the creation of new helplines to offer a greater level of telephone and Internet support, special training of police officers on VAW, or expanding funds available to shelters and counselling services. Some non-traditional measures taken in the region thus far include repurposing an empty hotel in Moscow to provide extra rooms to shelters and police performing check-ups on women who had reported domestic violence prior to the pandemic.

57 First-line support includes: listening empathetically and without judgment, inquiring about needs and concerns, validating survivors' experiences and feelings, enhancing safety, and connecting survivors to support services.